

## REMARKS

By this amendment, applicants have amended claim 1 to include therein the limitations previously recited in dependent claim 5. Applicants have canceled claims 2-5 without prejudice or disclaimer and have amended claims 6-10 to depend from claim 1.

Applicants note the restriction requirement in the outstanding Office Action and affirm their provisional election of Group I, including claims 1-6 and 10, drawn to a positive electrode material and a lithium secondary battery.

In view of cancellation of claim 5 and the amendments to claims 6 and 10, the objection to claims 5, 6 and 10 in numbered section 5 of the Office Action is moot.

In view of the cancellation of claims 3 and 4, the rejection of these claims under 35 U.S.C. 102(b) in numbered section 7 of the Office Action is moot.

In view of the cancellation of claim 2, the rejection of this claim under 35 U.S.C. 103(a) in numbered section 10 of the Office Action is moot.

Claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-85006. Applicants traverse this rejection and request reconsideration thereof, at least insofar as it applies to the claims presently in the application.

Claims 1 and 6 relate to a positive electrode material and claim 10 to a lithium secondary battery including a positive electrode made of the positive electrode material according to claim 1. The positive electrode material of the present invention includes plural primary particles flocculated to form a secondary particle, wherein the length in which the primary particles are linked on the section of the secondary particle is equivalent to 10 to 70% of the length of the whole periphery of the section of the primary particles. As now recited in claim 5, the secondary particle is represented as  $\text{Li}_a\text{Mn}_x\text{Ni}_y\text{Co}_z\text{O}_2$ , and the secondary particle is composed of

crystals having layer structure of composite oxide meeting  $1 \leq a \leq 1.2$ ,  $0 \leq x \leq 0.65$ ,  $0.35 \leq y < 0.5$ ,  $0 \leq z \leq 0.65$  and  $x+y+z=1$ .

The cited JP 2001-085006 does not disclose such a positive electrode material or a lithium secondary battery including a positive electrode made of such a positive electrode material. In JP 2001-085006, the secondary particles are expressed by the formula  $\text{Li}_{x-y}\text{A}_y\text{Ni}_{1-z}\text{M}_z\text{O}_2$ , where A is one or more of alkali metals excluding Li and alkali earth metals, M is one or more of Co, Mn, Cr, Fe, V and Al, and conditions should be met such that  $0 < x \leq 1$ ,  $0 \leq y \leq 0.2$ ,  $0 < x-y \leq 1$ ,  $x+y \leq 1$ , and  $0 \leq z \leq 0.5$ . Thus, in JP 2001-085006, Ni is included in the amount of 50% or more (1-z with z being less than or equal to 0.5). On the other hand, according to the present invention, the secondary particle is represented as  $\text{Li}_a\text{Mn}_x\text{Ni}_y\text{Co}_z\text{O}_2$  where  $0.35 \leq y \leq 0.5$ . Thus, according to the present invention, Ni is contained in the amount less than 50%. Therefore, the presently claimed invention is neither anticipated by nor obvious over JP 2001-085006.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance of all of the claims now in the application are requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 1021.43559X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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